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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,200	12/01/2003	Patrick D. Ryan	0160109	3290

53375 7590 02/21/2008
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EXAMINER

MOORE, IAN N

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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02/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/726,200	RYAN, PATRICK D.	
	Examiner	Art Unit	
	Ian N. Moore	2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE:

Claim 1 is amended in line 5 to include "for a call". Claim 12 is also amended in line 5 to include "for a call". These additions made to claims 1 and 12 raise new issues.

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding claims 1-22, the applicant argued that, "...Fisher discloses "configuration said first gateway to said data mode of operation...enabling said first gateway to detect human voice and/or silence on said communication line..." in page 7-10.


In response to applicant's argument, the examiner respectfully disagrees with the argument above.

Fisher discloses configuring said first gateway to said data mode of operation (see page 2, paragraph 22, 24; see page 3, paragraph 28,30; see FIG. 1, Remote Access Concentrator (RAC) 118 setting/configuring ISP gateway 106 to FoIP or MoIP mode/form for an internet access modem call/session); enabling said first gateway to detect human voice or silence on said communication line (see FIG. 1, see page 2-3, paragraph 24, 26-28,32,33; Access Concentrator (RAC) 118 of ISP gateway 106 detects the voice call/request of VoIP or silent/no-call/call-termination/no-voice of a FoIP/MoIP mode/form in the connection link/line; see page 3, paragraph 26-28,33); reconfiguring said first gateway to said voice mode for said call if said voice and/or silence detector detects human voice or silence on said communication line (see page 2-3, paragraph 24, 26-28; note that when/if a client request/make a new VoIP call, RAC of ISP detects voice in the connection and performs a modem on hold (MoHip) procedure by switching to VoIP mode/form (i.e. reconfiguration to voice mode for the call request)).

Note that applicant admission of configuration of data connection is acknowledged. It is also clear that when gateway 106 is configured for a data connection for a MoIP/FoIP call, it is configuring/setting the gateway to data mode of operation. As recited in Fisher page 3, paragraph 28, upon receiving VoIP call the gateway switches to a new VoIP call, which is reconfiguring from the data mode (i.e. MoIP/FoIP) to a voice mode (i.e. VoIP).

INM

12/19/07


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